

**REMARKS/ARGUMENTS**

Claims 1-84 were examined on their merits. Claims 1, 21, 23, 25, 43, 63, 65, and 67 have been amended, while claims 2-20, 22, 24, 26-42, 44-62, 64, 66, and 68-84 remain unchanged. Therefore, claims 1-84 are currently pending in the present application.

**I. Request for Interview**

In the event that there are any issues left unresolved by this Response, the Examiner is respectfully requested to contact the undersigned to schedule a telephonic interview prior to issuance of another Office Action. Applicants believe that an interview will greatly assist and expedite the examination of the present application. The undersigned can be reached at the number listed below.

**II. Amendments to the Claims**

The structures of claims 1 and 21 have been amended for clarity. No new matter has been introduced by way of these amendments. Claims 1, 21, 23, 25, 43, 63, 65, and 67 have also been amended to recite “a suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing.” No new matter has been introduced by these amendments. Support for this subject matter can be found at least Figure 1; page 20, lines 14-17; and page 22, lines 16-20 of the present application.

**III. The Obviousness Rejection of Claims 1-19, 21-61, and 63-84**

Claims 1-19, 21-61, 63-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stevens, U.S. Patent No. 1,105,934 (“Stevens”) in view of Voges, U.S. Patent No. 5,894,891 (“Voges”). *See, e.g.,* Interview Summary. Particularly, the Examiner contends that Stevens discloses a device for delivering an aerosolized compound comprising a medicament reservoir, a housing having an upstream end and a down stream end and comprising an inlet and an outlet between which is formed an airflow path wherein the inlet is located at the upstream end of the housing and facing opposite the outlet. *See, e.g.,* Office Action at pages 2-3. The Examiner further contends that Voges teaches a system comprising an entry port and an element to generate particles of a desired size for physical ejection through apertures from an ejection head, and that it would have been obvious to combine the device of Stevens with the system of Voges. *See, e.g.,* Office Action at page 3.

While Applicants respectfully disagree with the assertions of the Examiner, Applicants have amended independent claims 1, 21, 23, 25, 43, 63, 65, and 67 to recite additional features not taught or suggested by Stevens or Voges. More specifically, amended independent claims 1, 21, 23, 25, 43, 63, 65, and 67 each recite “a suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing.” Applicants submit that newly amended independent claims 1, 21, 23, 25, 43, 63, 65, and 67, and the claims that depend therefrom, are patentable at least for the following reason.

As stated in MPEP § 2143.01, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Stevens fails to teach or suggest the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing.” First, Stevens does not teach or suggest airflow traveling between the system and the housing, as claimed. Assuming, *arguendo*, that the tubular cage 30 of Stevens teaches the claimed system and the outer body 1 of Stevens teaches the claimed housing, Stevens makes clear that airflow travels *through* the cage 30 rather than between the cage 30 and the outer body 1. Second, and more important, because the airflow in Stevens is through the cage 30, absent from Stevens is any teaching or suggestion to minimize obstructions to the airflow between the cage 30 and the outer body 1. Thus, Stevens implicitly fails to disclose any means to minimize obstructions to the airflow between the cage 30 and the outer body 1, such as using a suspension attachment to connect the cage 30 to the outer body 1, as claimed. Indeed, Stevens is silent regarding how (or if) the cage 30 is attached to the outer body 1, merely stating “the barrel or body of the inhaler is adapted to contain a perforated tubular holder or cage 30...” Stevens at lines 53-55. A perusal of Steven’s figures makes it clear that nothing relating to a suspension attachment to connect the cage 30 to the outer body 1 is even remotely contemplated. See, e.g.,

Stevens Figs. 1-14. As such, Stevens fails to teach or suggest the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing.”

Voges is also silent regarding the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing.” Wholly absent from Voges is any teaching or suggestion regarding any attachment that connects the system to the housing, as claimed, and the specific design of Voges suggests such a connection would be unnecessary. It is assumed, *arguendo*, that the droplet ejection device 14 of Voges teaches the claimed system and the body 2 of Voges teaches the claimed housing. Referring to Fig. 2, the air in Voges travels into the device through slots 7 that are positioned in front of substantially all of the cartridge 21, flows past droplet ejection device 14, and flows out of the device through mouthpiece 5. *See, e.g.*, Voges at Fig. 2. The droplet ejection device 14 is mounted to the front of the cartridge 21 in the path of the air flow. *Id.* This mounting of the ejection device 14 to the cartridge 21 permits the ejection device 14 to “float” within the body 2. *Id.* Thus, there is nothing directly connecting the ejection device 14 to the body 2. Because Voges does not teach or suggest any attachment that connects the droplet ejection device 14 to the body 2, Voges fails to teach or suggest the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing,” and fails to cure the deficiency of Stevens.

Because both Stevens and Voges fail to teach or suggest the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing,” it cannot be said that the combination of Stevens and Voges teaches or suggests all the claim limitations of amended independent claims 1, 21, 23, 25, 43, 63, 65, and 67. The Examiner is therefore requested to reconsider and withdraw the rejection of amended independent claims 1, 21, 23, 25, 43, 63, 65, and 67, and the claims that depend therefrom, as being unpatentable over Stevens in view of Voges.

#### **IV. The Obviousness Rejection of Claims 20 and 62**

Claims 20 and 62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stevens in view of Voges and further in view of Gonzalez, U.S. Patent No. 455,614

(“Gonzalez”). See Office Action at page 5. Claim 20 depends from amended independent claim 1 and claim 62 depends from amended independent claim 43. While Applicants respectfully disagree with the assertions of the Examiner, Applicants have amended independent claims 1 and 62, as discussed above, to recite additional features not taught or suggested by the cited references. Applicants submit that newly amended independent claims 1 and 43, and the claims that depend therefrom, are patentable at least for the following reason.

As discussed above, and fully incorporated herein, Stevens and Voges fail to teach or suggest the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing,” as recited in independent claims 1 and 43. Therefore, for independent claims 1 and 43 to be unpatentable, Gonzalez must compensate for the deficiencies of Stevens and Voges.

Gonzalez is directed to a smoking device for delivering an aerosolized compound. More specifically, Gonzalez describes a smoking device with a body (A) that contains an inlet (a) and a smoke passage (A'). In the body (A) is a sponge (B) acting as a filter that separates the inlet (a) and mouthpiece (e'). The sponge (B) is mounted to the body using perforated diaphragms (C),(C'). Cigar smoke passes through the sponge (B) and diaphragms (C),(C') before being inhaled. The sponge (B) acts as a precipitant of nicotine in the cigar smoke.

Gonzalez is identical to Stevens in that Gonzalez does not teach or suggest airflow traveling between the system and the housing, as claimed. It is assumed, *arguendo*, that the sponge (B) of Gonzalez teaches the claimed system and the body (A) of Gonzalez teaches the claimed housing. Gonzalez clearly teaches that airflow travels through the sponge (B) rather than between the sponge (B) and the body (A), as claimed. Because the airflow in Gonzalez is through the sponge (B), absent from Gonzalez is any teaching or suggestion to minimize obstructions to the airflow between the sponge (B) and the body (A). Thus, Gonzalez, like Stevens, implicitly fails to disclose any means to minimize obstructions to the airflow between the sponge (B) and the outer body (A), such as using a suspension attachment, as claimed. While Gonzales teaches using perforated diaphragms (C),(C') to attach the sponge (B) to the body (A), the perforated diaphragms (C),(C') are dissimilar from the claimed suspension attachment of the present invention, and are not used to minimize obstruction to airflow between the sponge (B)

and outer body (A), but rather are used to minimize obstruction to airflow *through* the sponge (B).

For the foregoing reasons, Gonzalez fails to teach or suggest the claimed “suspension attachment connecting the system to the housing such that the airflow is substantially unobstructed when between the system and the housing.” Because absent from Gonzalez is any teaching or suggestion of airflow traveling between the system and the housing and any teaching or suggestion of using a suspension attachment to minimize obstruction to airflow between the system and housing, Gonzales fails to cure the deficiencies of Stevens of Voges. The combination of Stevens, Voges, and Gonzalez cannot reasonably be said to render obvious the claimed subject matter. The Examiner is therefore respectfully requested to withdraw the § 103(a) rejection from claims 20 and 62.

V. **Conclusion**

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously requested. In order to expedite resolution of any issues and to expedite passage of the present application to issue, the Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number if any comments, questions, or suggestions arise in connection with the present application.

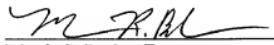
Applicants are concurrently submitting herewith a petition for a Two-Month Extension of Time, along with the requisite fee. In the event that the U.S. Patent and Trademark Office requires any additional fee to enter and/or consider this Reply, or to prevent abandonment of the present application, please charge such fee to the undersigned's Deposit Account No. 50-2613 (Order No. 38466.00008.UTL1).

Respectfully submitted,

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Dated: October 2, 2007

By:

  
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